



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R08-OAR-2020-0741; FRL-10025-27-Region 8]

Approval and Promulgation of Implementation Plans; Montana; Butte PM₁₀

Nonattainment Area Limited Maintenance Plan and Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Limited Maintenance Plan (LMP) submitted by the State of Montana to EPA on March 23, 2020, for the Butte Moderate nonattainment area (NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀) and concurrently redesignate the NAA to attainment for the 24-hour PM₁₀ National Ambient Air Quality Standard (NAAQS). In order to approve the LMP and redesignation, EPA determined that the Butte, MT NAA has attained the 1987 24-hour PM₁₀ NAAQS of 150 µg/m³. This determination is based upon monitored air quality data for the PM₁₀ NAAQS during the years 2014 through 2018. The EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2020-0741. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>,

or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kate Gregory, Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-ARD-QP, 1595 Wynkoop Street, Denver, Colorado 80202-1129, telephone number: (303) 312-6175, email address: gregory.kate@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our April 19, 2021 proposal (86 FR 20353). In that document, we proposed to approve the LMP for the Butte NAA and the State's request to redesignate the Butte NAA from nonattainment to attainment for the 1987 24-hour PM₁₀ NAAQS. Additionally, we proposed to determine that the Butte NAA has attained the NAAQS for PM₁₀. That determination was based upon monitored air quality data for the PM₁₀ NAAQS during the years 2014 through 2018. Finally, in our April 19, 2021 proposal, EPA proposed to approve the Butte LMP as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A.

The public comment period on the EPA's proposed rule opened on April 19, 2021, the date of its publication in the *Federal Register* (86 FR 20353) and closed on May 19, 2021. During this time, the EPA received two comments, both in support of this action and neither require response to comment.

II. Final Action

For the reasons explained in our proposed action, we are approving the LMP for the Butte NAA and the State's request to redesignate the Butte NAA from nonattainment to attainment for the 1987 24-hour PM₁₀ NAAQS. Additionally, the EPA is determining that the Butte NAA has attained the NAAQS for PM₁₀. This determination is based upon monitored air quality data for the

PM₁₀ NAAQS during the years 2014 through 2018. The EPA is approving that the Butte LMP as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the EPA is finalizing the incorporation by reference of maintenance plans for the Butte PM₁₀ NAA and the Governor of Montana's redesignation requests for the Butte PM₁₀ NAAs to attainment. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

¹ 62 FR 27968 (May 22, 1997).

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, and Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 21, 2021.

Debra H. Thomas,
Acting Regional Administrator,
Region 8.

40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart BB—Montana

2. In §52.1370, the table in paragraph (e) is amended by adding the entry “Butte 1987 PM₁₀ Limited Maintenance Plan” under the heading entitled “(8) Silver Bow County” at the end of the section to read as follows:

§52.1370 Identification of plan.

* * * * *

(e) * * *

Title/Subject	State effective date	Notice of final rule date	NFR Citation
* * * * *			
(8) Silver Bow County			
* * * * *			
Butte 1987 PM ₁₀ Limited Maintenance Plan		[insert date of publication in the Federal Register]	[insert Federal Register citation]
* * * * *			

3. In §52.1374, add paragraph (f) to read as follows:

§52.1374 Control strategy: Particulate matter.

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(f) On March 23, 2020, the State of Montana submitted limited maintenance plans for the Butte PM₁₀ nonattainment areas and requested that this area be redesignated to attainment for the PM₁₀ National Ambient Air Quality Standards. The redesignation request and limited maintenance plans satisfy all applicable requirements of the Clean Air Act.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

4. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart C—Section 107 Attainment Status Designations

5. In §81.327, the table entitled “Montana—PM–10” is amended by revising the entry “Silver Bow County, Butte” to read as follows:

§81.327 Montana.

* * * * *

Designated Area	Designation		Classification	
	Date	Type	Date	Type
* * * * *				
Silver Bow County, Butte	[insert date 30 days after date of publication in the Federal Register]	Attainment		

<p>The following area of Butte-Silver Bow excluding the territorial limits of the City of Walkerville: Beginning at the Northwest corner of Section 2, T.3N., R.8W., thence Easterly to Northeast corner Section 5, T.3N., R.7W.; then Southerly to Northwest corner Section 9, T.3N., R.7W.; thence Easterly to Northeast corner Section 10, T.3N., R.7W.; thence Southerly to Southeast corner Section 22, T.2N., R.7W.; thence Westerly to Southwest corner Section 19, T.2N., R.7W.; thence Northerly to Northwest corner Section 19, T.2N., R.7W.; thence Westerly to Southwest corner Section 14, T.2N., R.8W.; thence Northerly to Southwest corner Section 35, T.3N., R.8W.; thence Westerly to Southwest corner Section 34, T.3N., R.8W.; thence Northerly to Northwest corner Section 27, T.3N., R.8W.; thence Westerly to Southwest corner Section 20, T.3N., R.8W.; thence Northerly to Northwest corner Section 17, T.3N., R.8W.; thence Easterly to Northwest corner Section 14, T.3N., R.8W.; thence Northerly to the point of beginning.</p>				
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